## **ENTERED**

March 28, 2019
David J. Bradley, Clerk

## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

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§	CIVIL ACTION NO. H-19-515
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## **ORDER**

Carol L. Hymes and Teairra L. Hymes sued AmCap Mortgage Limited, Cenlar FSB, and Lakeview Loan Servicing, LLC, in state court, alleging that the Lenders agreed to allow the Hymes to delay mortgage payments following Hurricane Harvey, but then refused to accept the delayed payments and scheduled a foreclosure sale. (Docket Entry No. 1-3 at 3–4; Docket Entry No. 1-5 at 3). The Plaintiffs asserted claims for contract breach, fraud, negligent misrepresentation, and various Texas Code violations, seeking a temporary restraining order, declaratory judgment, and damages. (Docket Entry No. 1-3 at 5–11; Docket Entry No. 1-5 at 4–11). The state court issued a temporary restraining order in February 2019, enjoining the foreclosure sale, and scheduled a preliminary injunction hearing for February 15. (Docket Entry No. 1-6). The temporary restraining order was set to expire on February 18. (*Id.*).

The Lenders removed to federal court on February 14, 2019, and soon after moved to dismiss, arguing that the complaint failed to state plausible claims. (Docket Entry No. 1; Docket Entry No. 4). In early March, the Plaintiffs amended their complaint and responded to the motion to dismiss. (Docket Entry Nos. 10–11). The parties must file supplemental briefing on whether the

amended complaint moots the Lenders' motion to dismiss or, if not, requires amendments to the motion to dismiss. The supplemental briefs must not exceed 5 pages each and must both be submitted no later than **April 10**, **2019**.

SIGNED on March 28, 2019, at Houston, Texas.

Lee H. Rosenthal

Chief United States District Judge